



1 The court has discretion to reconsider and vacate a prior order. Barber v. Hawaii, 42 F.3d  
2 1185, 1198 (9<sup>th</sup> Cir.1994); United States v. Nutri-cology, Inc., 982 F.2d 394, 396 (9<sup>th</sup> Cir.1992).  
3 Motions for reconsideration are disfavored, however, and are not the place for parties to make  
4 new arguments not raised in their original briefs. Northwest Acceptance Corp. v. Lynnwood  
5 Equip., Inc., 841 F.2d 918, 925-26 (9<sup>th</sup> Cir.1988). “A party seeking reconsideration must show  
6 more than a disagreement with the Court's decision, and recapitulation of the cases and  
7 arguments considered by the court before rendering its original decision fails to carry the moving  
8 party's burden.” U.S. v. Westlands Water Dist., 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001).  
9 Motions to reconsider are committed to the discretion of the trial court. Combs v. Nick Garin  
10 Trucking, 825 F.2d 437, 441 (D.C.Cir. 1987); Rodgers v. Watt, 722 F.2d 456, 460 (9<sup>th</sup> Cir. 1983)  
11 (en banc). To succeed, a party must set forth facts or law of a strongly convincing nature to  
12 induce the court to reverse its prior decision. See, e.g., Kern-Tulare Water Dist. v. City of  
13 Bakersfield, 634 F.Supp. 656, 665 (E.D.Cal. 1986).

14 Pursuant to Federal Rule of Civil Procedure 60(b), the court may relieve a party from a  
15 final judgment based on specific grounds, such as: (1) mistake, inadvertence, surprise, or  
16 excusable neglect; (2) newly discovered evidence; (3) fraud; (4) a void judgment; (5) a satisfied  
17 or discharged judgment; or (6) “extraordinary circumstances” which would justify relief. School  
18 Dist. No. 1J Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993).

19 The Ninth Circuit has stated that “[c]lause 60(b)(6) is residual and ‘must be read as being  
20 exclusive of the preceding clauses.’” LaFarge Conseils et Etudes, S.A. v. Kaiser Cement, 791  
21 F.2d 1334, 1338 (9th Cir. 1986) (quoting Corex Corp. v. United States, 638 F.2d 119 (9th Cir.  
22 1981)). Accordingly, “the clause is reserved for ‘extraordinary circumstances.’” Id.

23 Here, Plaintiff has failed to make a showing that any statutory grounds exist for  
24 reconsideration. Plaintiff is correct that a plaintiff's failure to amend is not disobedience of a  
25 court order where the original dismissal was erroneous. Yourish v. California Amplifier, 191  
26 F.3d 983, 992 (9th Cir.1999); see also McKeever v. Block, 932 F.2d 795, 797 (9th Cir.1991)

1 (“The refusal to file a second amended complaint would not be unreasonable if the first amended  
2 complaint was dismissed erroneously.”). However, here, the original complaint was properly  
3 dismissed. Plaintiff cannot maintain a civil rights cause of action pursuant to 42 U.S.C. § 1983  
4 against private companies and persons who do not work for the government. Private parties,  
5 including corporations, are not acting under color of state law. Price v. Hawaii, 939 F.2d 702,  
6 707-08 (9<sup>th</sup> Cir. 1991). The complaint fails to allege that the private corporation’s and private  
7 person’s actions were on behalf of the state or fairly attributable to the state.

8 In addition, the complaint fails to allege a due process violation. An authorized,  
9 intentional deprivation of property is actionable under the Due Process Clause. Hudson v.  
10 Palmer, 468 U.S. 517, 532, n.13 (1984) (citing Logan v. Zimmerman Brush Co., 455 U.S. 422  
11 (1982)); Quick v. Jones, 754 F.2d 1521, 1524 (9th Cir. 1985). An authorized deprivation is one  
12 carried out pursuant to established state procedures, regulations, or statutes. Logan, 455 U.S. at  
13 436; Piatt v. McDougall, 773 F.2d 1032, 1036 (9th Cir. 1985). Authorized deprivations of  
14 property are permissible if carried out pursuant to a regulation that is reasonably related to a  
15 legitimate penological interest. Turner v. Safley, 482 U.S. 78, 89 (1987). The complaint fails  
16 to allege that prison official’s confiscation of Plaintiff’s tapes was not legitimate. Plaintiff’s  
17 incoming cassette tape was confiscated because it was shipped by an unapproved vendor.  
18 Plaintiff’s disagreement with the decision does not provide a basis upon which to impose liability  
19 as alleged in the complaint. Therefore plaintiff is not entitled to relief from judgment pursuant to  
20 Federal Rule 60(b).

21 Accordingly, the court orders that Plaintiff’s motion for reconsideration is DENIED.

22  
23 IT IS SO ORDERED.

24 **Dated: May 29, 2006**  
25 0m8i78

/s/ Anthony W. Ishii  
UNITED STATES DISTRICT JUDGE